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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,000	05/14/2001	Kilian schuster	1-15632	1245
43935	7590	02/19/2010		
FRASER CLEMENS MARTIN & MILLER LLC 28366 KENSINGTON LANE PERRYSBURG, OH 43551				
EXAMINER				
TRUVAN, LEYNN A THANH				
ART UNIT		PAPER NUMBER		
2435				
NOTIFICATION DATE		DELIVERY MODE		
02/19/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

**Application No.**

09/855,000

**Applicant(s)**

SCHUSTER ET AL.

**Examiner**

Leynna T. Truvan

**Art Unit**

2435

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-31 is/are pending in the application.
- 4a) Of the above claim(s) 1-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 21-31 remains pending. Claims 1-20 are cancelled.
2. In view of the Pre-Appeal Brief filed on 10/13/09, PROSECUTION IS HEREBY REOPENED. A Non-Final rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**3. Claims 21-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen, et al. (US 6,000,505) and further in view of Nendell (US 6,343,361).**

**As per claim 21:**

Allen discloses a method of initiating a procedure within a building comprising the steps of:

- a. defining at least one initiating event for the procedure which event does not involve a person arriving at the building; **[col.3, lines 40-50 and col.6, lines 50-64]**
- b. defining at least one security requirement for the procedure; **[col.3, lines 52-62 and col.9, lines 25-30]**
- c. defining at least one person to be authorized to perform the procedure; **[col.3, lines 1-3 and col.20, lines 47-56]**
- d. detecting the occurrence of the at least one initiating event wherein the at least one person does not define the at least one initiating event and does not cause the occurrence of the at least one initiating event; **[col.5, line 63 – col.6, lines 17 and col.13, lines 15-28]**
- e. *[generating a virtual key]* **[Nendell - col.7, lines 30-64]** for the at least one based on the at least one requirement detecting the occurrence of the at least one initiating event and prior to the at least one person arriving at the building; **[col.20, lines 2-5]**
- f. *[transmitting virtual key to the at least one person]*; **[Nendell - col.3, lines 28-45]**
- g. detecting use of the virtual key by the at least one person in the building; **[Nendell - col.10, lines 45-52 and col.11, lines 21-27]**
- h. checking the validity of the virtual key; and **[Nendell – col. 9, lines 50-67]**

i. initiating said procedure within the building if the validity check is positive wherein initiating the procedure consists of performing at least one of the steps of:

opening of at least one door of the building; **[Nendell - col.10, lines 20-40]**

making at least one elevator available; **[col.4, lines 28-42 and col.6, lines 48-65]**

opening of at least one elevator door; and

j. performing said steps a. through i. in an access control computer system associated with the building. **[col.19, line 37 – col.20, line 60]**

The claimed initiating event can broadly be interpreted as to begin or trigger a function or event. Allen defines the initiating event as an emergency or fire/smoke condition causing a signal (col.5, line 63 – col.6, lines 17) to a building security station, to a fire department, and to an alarm system to alert or alarm a fire/smoke so that procedure(s) is initiated accordingly (col.3, lines 3, lines 40-62 and col.4, lines 37-49). A procedure can broadly be given as opening/closing predetermined doors, operation of fire doors, sounding alarms, elevator functions, etc. (col.6, lines 50-64 and col.9, lines 25-30) Allen discloses a signal control system has a communication mechanism connectable to a remote communication system at a location remote from the building (i.e. fire department). The communication mechanism sends the detection signal and at least one status signals to the remote communication system to providing building status information to the location remote from the building that has detected an emergency condition in the building (col.5, line 63 – col.6, lines 17). Allen's invention reads the claimed invention that does not involve a person arriving at the building since fire/smoke is detected by sensing devices which then initiates an emergency or fire/smoke condition for procedures (as discussed above) within the building. As a result, the fire department

personnel can monitor and control the building's status upon receiving the initial alarm signal and prior to arriving at the building to override elevators or door functions (co.3, lines 1-6 and col.19, line 37 – col.20, line 40 and col.20, lines 45-60). Hence, Allen reads on the limitations of steps a-e.

However, Allen does not go into further details of generating virtual key and transmitting the virtual key to a person. The claimed transmitting virtual key to the at least one person does not particularly indicate or show how a person is to receive the transmitted virtual key. One can broadly interpret which is also discussed in applicant's specification that a person can receive the transmitted virtual key via some form of a computer related device which can include cellular phone, PDA, smartcard, monitor/display, etc. Accordingly, Nendell discloses the verifying and authenticating the identity of participants in electronic communication where participants include computers, telecommunication devices, or the human users of computers (col.5, lines 39-43).

Nendell discloses verifying and authenticating the identity of participants in electronic communication where the sending device generates a passphrase and an associated secondary key (col.7, lines 30-64). The sending device transmits this key to the recipient device and the passphrase is reconstructed by the recipient device (col.3, lines 28-45). The recipient device is obviously operated by a user or person that is used to obtain access which reads on the claimed transmitting the virtual key to at least one person. Nendell discloses the passphrase can be generated each time electronic communication is conducted so that the passphrases are not stored permanently in the memory of recipient devices. As such passphrases are not subject to misappropriation by unauthorized persons (col.3, lines 50-59).

Thus, it would have been obvious for a person of ordinary skills in the art at the time of the invention to combine Allen with Nendell teaching generating a virtual key and transmitting the virtual key to at least one person because by not requiring the passphrase (virtual key) to be stored permanently at the recipient device will not subject to misappropriation by unauthorized persons (Nendell - col.3, lines 50-59).

**As per claim 22:** See Nendell - col.7, lines 30-64; discusses a step of assigning an encrypted code to the virtual key.

**As per claim 23:** See Nendell - col.3, lines 28-45; discusses the steps of adding a signature to the virtual key and identifying a recipient of the transmitted virtual key by the signature.

**As per claim 24:** See Allen on col.6, lines 50-64 and col.9, lines 25-30; discusses defining different procedures for different initiating events.

**As per claim 25:** See Allen on col.6, lines 50-64 and col.9, lines 25-30; discusses defining different requirements for different procedures.

**As per claim 26:** See Allen on col.6, lines 50-64 and col.9, lines 25-30 and ; discusses transmitting different virtual keys to said person for different initiating events.

**As per claim 27:** Nendell - col.8, lines 6-60 and col.9, lines 5-30; discusses storing said virtual key partially or completely.

**As per claim 28:** See Nendell – col.3, lines 28-45 and col.7, lines 30-64; discusses the steps of identifying the at least one person with biometrics characteristics.

**As per claim 29:** See Allen on col.5, line 63 – col.6, line 64 and col.10, lines 45-52 and col.11, lines 21-27; discusses the method according to Claim 21, further comprising at least one of the steps

of: initiating a control procedure of an elevator in the building; initiating a medical assistance procedure; initiating a building cleaning procedure; and initiating a guest reception procedure.

**As per claim 30: See Nendell – col.3, lines 28-45;** discusses the step of transmitting the virtual key using wireless devices.

**As per claim 31:**

Allen discloses a method of initiating a procedure within a building comprising the steps of:

- a. defining at least one initiating event for the procedure which event does not involve a person arriving at the building; **[col.3, lines 40-50 and col.6, lines 50-64]**
- b. defining at least one of a security requirement and an availability requirement for the procedure; **[col.3, lines 52-62 and col.9, lines 25-30]**
- c. defining at least one person to be authorized to perform the procedure; **[col.3, lines 1-3 and col.20, lines 47-56]**
- d. detecting the occurrence of the at least one initiating event wherein the at least one person does not define the at least one initiating event and does not cause the occurrence of the at least one initiating event; **[col.5, line 63 – col.6, lines 17 and col.13, lines 15-28]**
- e. *[generating a virtual key]* **[Nendell - col.7, lines 30-64]** for the at least one based on the at least one requirement detecting the occurrence of the at least one initiating event and prior to the at least one person arriving at the building; **[col.20, lines 2-5]**
- f. *[transmitting virtual key to the at least one person];* **[Nendell - col.3, lines 28-45]**
- g. detecting use of the virtual key by the at least one person in the building; **[Nendell - col.10, lines 45-52 and col.11, lines 21-27]**



h. *[checking the validity of the virtual key]*; and **[Nendell – col. 9, lines 50-67]**

i. initiating said procedure within the building if the validity check is positive wherein initiating the procedure consists of performing at least one of the steps of:

opening of at least one door of the building; **[Nendell - col.10, lines 20-40]**

making at least one elevator available;

opening of at least one elevator door; and

j. performing said steps a. through i. in an access control computer system associated with the building. **[col.19, line 37 – col.20, line 60]**

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procedures (as discussed above) within the building. As a result, the fire department personnel can monitor and control the building's status upon receiving the initial alarm signal and prior to arriving at the building to override elevators or door functions (co.3, lines 1-6 and col.19, line 37 – col.20, line 40 and col.20, lines 45-60). Hence, Allen reads on the limitations of steps a-e.

However, Allen does not go into further details of generating virtual key and transmitting the virtual key to a person. The claimed transmitting virtual key to the at least one person does not particularly indicate or show how a person is to receive the transmitted virtual key. One can broadly interpret which is also discussed in applicant's specification that a person can receive the transmitted virtual key via some form of a computer related device which can include cellular phone, PDA, smartcard, monitor/display, etc. Accordingly, Nendell discloses the verifying and authenticating the identity of participants in electronic communication where participants include computers, telecommunication devices, or the human users of computers (col.5, lines 39-43).

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passphrases are not stored permanently in the memory of recipient devices. As such passphrases are not subject to misappropriation by unauthorized persons (col.3, lines 50-59). Thus, it would have been obvious for a person of ordinary skills in the art at the time of the invention to combine Allen with Nendell teaching generating a virtual key and transmitting the virtual key to at least one person because by not requiring the passphrase (virtual key) to be stored permanently at the recipient device will not subject to misappropriation by unauthorized persons (Nendell - col.3, lines 50-59).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leynna T. Truvan whose telephone number is (571) 272-3851. The examiner can normally be reached on Monday - Thursday (7:00 - 5:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. T. T./  
Examiner, Art Unit 2435  
/Kimyen Vu/  
Supervisory Patent Examiner, Art Unit 2435